

**DURHAM, NORTH CAROLINA  
MONDAY, OCTOBER 18, 2010  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Council Member Woodard recognized scout leaders and boy scouts from Troop 405 with St. Matthew Catholic Church who were in attendance.

Council Member Clement thanked the Campaign for Decent Housing for their annual meeting and tour this past Saturday at Healing with Caare.

Mayor Pro Tempore Cole-McFadden announced she attended the 100 Men in Black concert at Union Baptist Church on Sunday and commended the group for reaching out to the youth.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield announced that Agenda Item #13 [Strategic Plan] was referred back to the administration [Budget and Management Services Department] at the October 7, 2010 Work Session. He stated Supplemental Agenda Item #17 [Public Hearing on Proposal Between HTC America Innovation and the City Regarding Incentives for Job Creation in a Community Development Area] was added to the agenda.

**MOTION** by Council Member Clement seconded by Council Member Woodard to accept the City Manager's priority items was approved at 7:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney or City Clerk.

Mayor Bell asked the City Clerk to announce at the Work Session citizens wishing to speak on a matter on the General Business Agenda at the City Council Meeting must sign up with the City Clerk by 7 p.m.

**October 18, 2010**

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item #9 was pulled by a citizen.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve City Council minutes for the September 20, 2010 City Council Meeting; and

To approve City Council action taken at the September 9, 2010 City Council Work Session was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to appoint Christle J. Glosson to represent a Minority Female on the Human Relations Commission with the term to expire on June 30, 2012 was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT FOUR TO CONTRACT BETWEEN CITY OF DURHAM AND CIRCA, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the addition of \$25,000.00 in General Funds; and

To authorize the City Manager to execute amendment 4 allowing CIRCA Inc. to expand their historic property environmental review services was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: EXTENSION OF WORKERS' COMPENSATION CLAIMS TPA CONTRACT - S.O.S CONSULTING, INC., DOING BUSINESS AS COMPENSATION CLAIMS SOLUTIONS**

**October 18, 2010**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to extend the existing contract for workers' compensation claims administration with S.O.S Consulting, Inc., doing business as Compensation Claims Solutions for an additional one year term beginning November 1, 2010 at the current annual rate of \$84,500.00 was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DONATION OF MIDLAND KIT FROM POTASH CORPORATION (POTASHCORP) TO THE CITY OF DURHAM FIRE DEPARTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to accept the donation of the Midland Kit from PotashCorp that has a value of \$7,200.00 was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HOUSING AND URBAN DEVELOPMENT (HUD) -VETERANS AFFAIRS SUPPORTIVE HOUSING VOUCHER PROGRAM**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution declaring a need for the Housing Authority of the County of Wake to Administer the HUD-Veteran Affairs Supportive Housing Voucher Program in Durham for a period of one (1) year was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9746**

**SUBJECT: CAPITAL PROJECT ORDINANCE AMENDMENT FOR THE FRIENDLY REST HOME PROJECT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to find that growth in all impact fee zones across the City makes this new facility necessary;

To authorize the expenditure of impact fees equally from Zones 1, 2, and 3 to fund planning and design of the facility; and

To adopt an ordinance amending the General Capital Project Ordinance, Fiscal Year 2011, as amended, the same being ordinance #14025, for the purpose of adding \$40,000.00 to the Friendly Rest Home project was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**October 18, 2010**

**Ordinance #14064**

**SUBJECT: USE OF ASSET FORFEITURE FUNDS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the use of Asset Forfeiture Funds in an amount not to exceed \$165,000.00 was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH WESTPOINT AT 751, LLC**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a water and sewer extension agreement with Westpoint at 751, LLC to serve Westpoint at 751 commercial, office and hotel development was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO PUBLIC WORKS ORDINANCES CONCERNING URBAN GROWTH AREA (UGA) AND UTILITY EXTENSION AGREEMENTS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an ordinance amending Durham City Code Chapter 70, Sections 125, 126, and 129 to update and clarify provisions regarding the Urban Growth Area and Utility Extension agreements was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14063**

**SUBJECT: EPLUS GROUP, INC. MOBILE DATA COMPUTER LEASE PURCHASE AGREEMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute a four (4) year lease agreement with ePlus Group, Inc. to lease 80 Panasonic Toughbooks, in the amount of \$182,321.76 was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**October 18, 2010**

**SUBJECT: ADOPTION OF STRATEGIC PLAN**

To adopt the three year Strategic Plan and/or authorize the City Manager to make modifications provided that any modifications are administrative and do not change the original intent of the Strategic Plan.

**Note: This item was referred back to the Administration – Budget and Management Services Dept.**

**The City Council disposed of the following items at the Work Session on October 7, 2010:**

**15. Blue Ridge Environmental Defense League (BREDL)**

To receive comments from Susan Dayton regarding a resolution for all medical waste incinerators in NC to come into early compliance with the new and more protective EPA rules; and

To support the “Resolution Requesting the Adoption of State Rules Requiring Early Implementation of Federal Standards for Hospital, Medical & Infectious Waste Incinerators” pending support by the Durham Environmental Affairs Board prior to October 15, 2010.

**(This item was approved at the 10-07-10 Work Session)**

**16. John Hunter**

To receive comments from John Hunter regarding violations at 604 N. Maple Street.

**(Comments were received at the 10-07-10 Work Session & item referred to the City Manager for review)**

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: STREET CLOSING – 4,253 SQUARE FEET OF HARMONY ROAD  
(SC1000003)**

To conduct a public hearing to receive public comments on the permanent closing of 4,253 square feet of Harmony Road, just west of Cook Road; and

To adopt an order permanently closing 4,253 square feet of Harmony Road.

City/County Planning Director Steve Medlin briefed Council on the street closing requested by Standard Pacific of the Carolinas, Inc. to close 4,253 square feet of Harmony Road to allow for the realignment of the right-of-way for the development of a single family subdivision. Mr.

**October 18, 2010**

Medlin reported the request has been reviewed by all appropriate agencies and service providers and no issues have been identified. He stated staff is recommending approval of this request.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Brown to adopt an order permanently closing 4,253 square feet of Harmony Road was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14066**

**SUBJECT: PUBLIC HEARING ON PROPOSAL BETWEEN HTC AMERICA INNOVATION, INC. AND THE CITY OF DURHAM REGARDING INCENTIVES FOR JOB CREATION IN A COMMUNITY DEVELOPMENT AREA**

To conduct a public hearing to receive public comments on the proposed agreement between HTC America Innovation, Inc. and the City of Durham regarding incentives for job creation in a community development area; and

To authorize the City Manager to execute a contract between HTC America Innovation, Inc. and the City of Durham in an amount not to exceed \$150,000.00.

Economic and Workforce Development Director Kevin Dick presented the following power point presentation on the proposed contract between HTC America and the City regarding incentives for job creation in a community development area:

**HTC Profile**

**The Company**

- Designs and manufactures mobile information and communication devices/smartphones
- Partners with mobile phone brands such as Sprint, T-Mobile, Verizon, AT&T, etc.

Increase in company visibility due to recent introduction of HTC branded devices, including HTC EVO 4G

**The Project**

- Research and Development hub for U.S. (expansion of current facilities)
- Location responsible for hardware, mechanical and software research and development
- Growth potential for the future – additional positions may come from future expansion

**Positions to be Created**

- Average salary – industrially competitive
- Medical/Dental/ Vision
- Comprehensive health and welfare program

**October 18, 2010**

- Life/disability insurance coverage

**Projected Position Types to be Added**

- Research and Development positions

2010 – 45

2011 – 15

2012 – 15

TOTAL - 75

**Eligible Period of Job Creation**

The Qualified Jobs shall be created after the date this Contract is approved by the City Council in the following time increments:

- 45 Qualified New Jobs by approximately January 1, 2011
- 15 Qualified New Jobs by approximately January 1, 2012
- 15 Qualified New Jobs by approximately January 1, 2013
- The total of Qualified Jobs shall be 99 by January 1, 2014
- If 85% of jobs are created during each increment, the City would prorate payments accordingly

**Extra Value Created**

- \$2,000,000 in private capital investment, including tangible personal property

**Condition Precedents**

- All positions created must be retained for at least 1 year
- Comply with provisions of “Workforce Agreement”
- Provide Certificate of Compliance for office space occupied by the Company, allowing occupancy by at least 99 individuals
- Ensure that all jobs hired are at or above the prevailing livable wage of the City

**Policy Issues**

Job Creation (within CDA) - must be at least 25 jobs created in the following areas within two years of City approval (up to \$2,500 per job - this meets threshold)

**Research and Development**

- One of the targeted areas for business recruitment in the Economic Development Financial Assistance Policy approved by Council on May 17, 2010
- Future expansion could spawn IT-related entrepreneurship

**Total Incentive Package**

- One North Carolina Fund – state contribution of \$150,000 over 3 years
- City Match - \$150,000 paid between FY 12 and FY 15 based upon the creation of 75 jobs
  - \$2,000 per job created

**October 18, 2010**

**City Incentive Package**

- Enter into a Workforce Agreement as part of the Business Incentive Contract that would stipulate the use of the Durham JobLink Career Center as a source for the recruitment of talent.
- In addition to the aforementioned incentives, as discussed, our staff would support professional development and layoff aversion activities of the firm through the following means:

**Provisions of Workforce Agreement**

- Enter into a Workforce Agreement as part of the Business Incentive Contract that would stipulate the use of the Durham JobLink Career Center as the first source for the recruitment of talent.
- Purpose is to create a partnership between JobLink and the business that brings value added services to the business's human resources needs
- Business will use JobLink as a source for recruitment, referral, and placement of new hires or employees for the new jobs created by this project
- Business has no obligation to hire the referred candidates but pledges to review the resumes thoroughly and agrees to interview the candidate(s) if qualified for the position
- The business will submit quarterly performance reports

**Why is Incentive Necessary**

- \$300,000 is needed to lure the company to North Carolina because:
  - Two other municipalities – one in Georgia; the other in Washington are vying for the project
  - The proposed incentive would exceed one offered by a competing location

**Why This Makes Sense for Durham Taxpayers**

- Durham would be recruiting a company that is creating high wage jobs in a growing industry (information technology/electronics)
- Research and development is among the job categories that we covet
- Consistent with goals of Downtown Master Plan
- Potential for more high wage IT-related jobs

It was noted that HTC stands for High Tech Computers.

Mayor Bell opened the public hearing.

Bill Kalkhof, representing Downtown Durham, Inc., spoke in support of this proposal. He noted HTC's presence would open doors and deliver opportunities for the City. Also, he thanked everyone involved with this partnership.

Adam Klein, representing the Greater Durham Chamber of Commerce, stated this is an exciting project and is honored that HTC is considering Durham as a location for their research and development center. He made comments on the impact HTC's relocation would have on the Durham community and urged Council to support HTC.



**October 18, 2010**

Victoria Peterson asked for information regarding this item: will college degrees be required for these jobs, will on-the job training be provided and asked that Durham citizens be considered for these jobs.

Mayor Bell addressed Ms. Peterson noting that the City would not be involved in the company's hiring process. He stated the City understands the importance of this issue and have laid out their role of how they are going to work with this company to ensure that the process and guidelines are followed.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to receive public comments on the proposed agreement between HTC America Innovation, Inc. and the City of Durham regarding incentives for job creation in a community development area; and

To authorize the City Manager to execute a contract between HTC America Innovation, Inc. and the City of Durham in an amount not to exceed \$150,000.00 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ron Louks, representing HTC, announced that he would be based out of the new facility in North Carolina and is extremely appreciative of the support from the City and community and they look forward to being a big part of the growth of the area. He noted that this would be a big upside for other companies in the area and a lot of startups to work with, highlighted why HTC decided to look to coming to North Carolina, made comments on the good talent in the area and stated they would be working closely with colleges in the area on recruiting students from a co-op point of view as well as for long-term jobs.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: 2010 JUSTICE AND MENTAL HEALTH COLLABORATION  
PROGRAM: PLANNING AND IMPLEMENTATION GRANT**

Victoria Peterson raised a concern that the City's ex-offender program as well as other ex-offender programs were not involved with this grant. She requested a quarterly report on how many clients this program will work with and would hope that Duke would partner with other ex-offender programs in the City.

Kisha Etheridge, of the Police Department, stated this grant is for a startup program to come up with a plan to present to the Department of Justice. She noted once the plan is reviewed and selected, there is a second level for the plan to be implemented.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to authorize the City Manager to accept the "2010 Justice and Mental Health Collaboration Program (JMHCP): Planning and Implementation" Grant by executing the grant documents;

**October 18, 2010**

To adopt the “2010 Justice and Mental Health Collaboration Program (JMHCP): Planning and Implementation” Grant Project Ordinance, in the amount of \$312,500; and

To authorize the City Manager to execute sub-recipient contracts with the Center for Child and Family Health, Duke University, and the Criminal Justice Resource Center in order to comply with the required collaborations as set forth in the approved Federal award budget and the grant initiative was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14065**

Mayor Bell reminded the public that early voting started last Thursday and encouraged everyone to get out and vote.

There being no further business to come before the City Council, the meeting was adjourned at 7:35 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC  
City Clerk